

Effective 5/13/2014

78A-6-508 Evidence of grounds for termination.

- (1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:
 - (a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;
 - (b) have failed to communicate with the child by mail, telephone, or otherwise for six months;
 - (c) failed to have shown the normal interest of a natural parent, without just cause; or
 - (d) have abandoned an infant, as described in Subsection 78A-6-316(1).
- (2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:
 - (a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;
 - (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;
 - (c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;
 - (d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;
 - (e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;
 - (f) a history of violent behavior; or
 - (g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201.
- (3) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.
- (4)
 - (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.
 - (b) Nothing in Subsection (4)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.
- (5) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.
- (6) The following circumstances constitute prima facie evidence of unfitness:
 - (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;
 - (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;
 - (c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

- (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or
- (e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Amended by Chapter 409, 2014 General Session